Supreme Court of Kentucky

ORDER

IN RE:

ORDER APPROVING LOCAL RULES FOR THE FAYETTE COUNTY JUVENILE TREATMENT COURT, 22ND JUDICIAL DISTRICT

Upon recommendation of Judge Lindsay Hughes Thurston and Judge Melissa Moore Murphy of the 22nd Judicial District, and being otherwise sufficiently advised,

The Local Rules for the Fayette County Juvenile Treatment Court, 22nd Judicial District, are hereby approved. This order shall be effective as of the date of this Order and shall remain in effect until further order of this court.

Entered this the 11th day of May 2021.

CHIEF JUSTICE JOHN D. MINTON, JR.

LOCAL RULES FOR THE FAYETTE COUNTY JUVENILE TREATMENT COURT

PART I: DEFINITIONS

- "Administrative discharge" means the discharge of a participant from Juvenile Treatment Court due to the participant's inability to complete Juvenile Treatment Court through no fault of his/her own.
- "Agreement of participation" means the written agreement required to be signed by all potential Juvenile Treatment Court participants and their applicable legal guardians as a condition of their participation in Juvenile Treatment Court. The agreement of participation will include the requirements of the program for each individual participant. This agreement may be altered by agreement of the parties.
- "Approved local diversion procedures" means pre-adjudication diversion procedures authorized by the Kentucky Supreme Court within each judicial circuit.
- "Assessment" means a tool used by Juvenile Treatment Court staff to assess mental health, treatment history, drug use history, and drug dependency for purposes of determining whether a Child will be considered for admission into Juvenile Treatment Court.
- "Eligible offenses" are offenses deemed to be caused by, arising out of, or a result of untreated or improperly treated mental health conditions but excluding violent offenses as defined by KRS 439.3401(1) and sexual offenses. This shall include treatment for substance use disorders co-occurring with mental health conditions.
- "Incentives" means tangible or intangible rewards earned by participants for positive steps taken toward attaining Juvenile Treatment Court goals. These may include, but are not limited to, promotion to the next phase, certificates and tokens, decreased supervision, increased privileges and responsibilities, praise from the Juvenile Treatment Court judge and team, and other individual incentives approved by the Juvenile Treatment Court team.
- "Individual participant plan" means a case management plan agreed to by the Juvenile Treatment Court participant and their guardians that best addresses the underlying mental health issues present.
- "Involuntary termination" means the termination by the Juvenile Treatment Court judge of a participant from Juvenile Treatment Court due to the participant's non-compliance with Juvenile Treatment Court's requirements, rules, or conditions.

- "Justice system case processing" means the manner in which a case is processed within the Kentucky Court of Justice, as reflected in CourtNet or the current Court of Justice case management system.
- "Juvenile Treatment Court" means the Fayette County Juvenile Treatment Court, which is an alternative sentencing court authorized by the Kentucky Supreme Court. Juvenile Treatment Court combines case management, judicial oversight, treatment, mental health assessments, and substance use assessments; and includes, but is not limited to, the implementation of curfews, sanctions, and incentives.
- "Juvenile Treatment Court Program Coordinator" means the employee or volunteer appointed by the Juvenile Treatment Court to support Juvenile Treatment Court services to clients.
- "Juvenile Treatment Court graduation" means the ceremony acknowledging the successful completion of the agreed upon participant plan.
- "Juvenile Treatment Court judge" means a judge who, in addition to his/her regular judicial duties, conducts Juvenile Treatment Court sessions and staff meetings, monitors and reviews the participant's progress in Juvenile Treatment Court, imposes sanctions and incentives, and facilitates other components of Juvenile Treatment Court as identified and required by the Juvenile Treatment Court and consistent with these rules.
- "Juvenile Treatment Court staff" means personnel hired and employed or volunteering to work with the Juvenile Treatment Court who perform the daily operations of Juvenile Treatment Court, including, but not limited to, providing case management for participants, attending Juvenile Treatment Court staff meetings and sessions, and coordinating mental health assessments and drug testing as needed.
- "Juvenile Treatment Court team" means the non-adversarial group that promotes public safety while acting in the best interest of the public and the participant, and that determines the appropriate responses for a participant's compliance or non-compliance with Juvenile Treatment Court requirements. While the Juvenile Treatment Court team determines responses to a participant's compliance or non-compliance, the Juvenile Treatment Court judge has the ultimate decision-making authority. The Juvenile Treatment Court team is comprised of the Juvenile Treatment Court judge(s), Juvenile Treatment Court staff, law enforcement, prosecutor(s), defense counsel, and treatment provider(s).
- "Notice of Eligibility" means the document provided to the referring judge following the Child's assessment wherein a determination of eligibility or ineligibility for admission to Juvenile Treatment Court is made.
- "Individual Treatment Team Recommendation" means any entity which may inform the Juvenile Treatment Court team of a Child's need for services.

"Receiving judge" means the judge conducting a Juvenile Treatment Court docket.

"Referring judge" means the judge who refers a Child to Juvenile Treatment Court.

"Sanctions" means the range of consequences imposed for the participant's failure to comply with the requirements or other conditions of Juvenile Treatment Court, which are appropriate and consistent. Sanctions may include, but are not limited to, admonishments from the judge, possible residential treatment, community service, increased group sessions, home incarceration, detention in a secure juvenile detention facility, and termination from Juvenile Treatment Court.

"Session" means the scheduled appearance of the participant before the Juvenile Treatment Court judge, during which the progress of the participant is reviewed and discussed, and assignments, verifications, or other requested information is provided to the Juvenile Treatment Court judge by the participant.

"Staff meeting" means meetings held by the Juvenile Treatment Court team, including the Juvenile Treatment Court judge, prior to a Juvenile Treatment Court session, for the purpose of discussing the participant's progress.

"Treatment provider" means an individual or agency licensed or certified to provide treatment and counseling to Juvenile Treatment Court participants as specified by the Juvenile Treatment Court.

"Voluntary termination" means the termination by the Juvenile Treatment Court judge of a participant from Juvenile Treatment Court, at the participants' request, but only after a determination has been made that the request was knowingly and voluntarily made.

PART II FAYETTE COUNTY JUVENILE TREATMENT COURT

Section 1. Key Components of a Juvenile Treatment Court

All Juvenile Treatment Court programs shall include the following key components:

- Juvenile Treatment Court shall integrate mental health treatment services with justice system case processing;
- Using a non-adversarial approach, prosecution and defense counsel promote public safety while protecting participants' due process rights;
- 3.) Eligible participants are identified early and, upon agreement, promptly placed in the Juvenile Treatment Court program;
- 4.) Juvenile Treatment Court seeks to identify and refer the Child to indicated and potentially beneficial mental health treatment services;
- Compliance is monitored by regular consultation with treatment providers, comprehensive and focused case management, and drug testing as indicated by assessments and participant progress;
- A coordinated strategy governs Juvenile Treatment Court responses to participants' compliance;
- 7.) Ongoing judicial interaction with each Juvenile Treatment Court participant is essential;
- 8.) Monitoring and evaluation measure the achievement of Juvenile Treatment Court goals and gauge effectiveness;
- Continuing interdisciplinary education promotes effective Juvenile Treatment Court planning, implementation, and operations;
- 10.) Forging partnerships among Juvenile Treatment Court, public agencies, and community-based organizations generates local support and enhances Juvenile Treatment Court effectiveness.

Section 2: Mission Statement

The mission of the Juvenile Treatment Court is to protect public safety and reduce the recidivism rate of juvenile offenders by increasing their overall wellness.

Using an integrated approach involving court supervision, mental health treatment services, education and personal accountability, the Juvenile Treatment Court seeks positive and long-lasting life changes.

The response and goals of the Juvenile Treatment Court is to be knowledgeable, sensitive, and nuanced to the racial, ethnic, and cultural needs of every juvenile in our community and to tailor treatment to the individual Child's needs.

Section 3. Juvenile Treatment Court Referral Process

A Child shall be referred to Juvenile Treatment Court through the following procedure:

- 1.) Any entity that aids the court system in diversion for juvenile offenses, including but not limited to, Commonwealth and County Attorneys (collectively "the Prosecutor"); Defense Counsel; Court Designated Workers; Court Designated Specialists, the Family, Accountability, Intervention, and Response (FAIR) Team; or presiding judges with jurisdiction over a Child's case, may recommend that the Child be assessed for participation in the Juvenile Treatment Court.
- A recommendation for assessment for Juvenile Treatment Court shall be completed on a prescribed form and set forth the reasons why the referring party believes that Child should be assessed.
- Such a recommendation shall be shared with both the Prosecutor and Defense Counsel as soon as possible.
- 4.) The Court or entity with jurisdiction over the Child's case must approve the referral for assessment to the Juvenile Treatment Court prior to the Child being assessed for the Court.

Section 4. Eligibility and Assessment

- 1.) Upon receipt of a written order of referral, Juvenile Treatment Court staff shall determine whether an individual is eligible for Juvenile Treatment Court using the following criteria. The Child:
 - a. Shall have a reasonable likelihood of having a behavioral health concern as defined by KRS 645.020(8), to include a substance use disorder, as indicated by the information provided to the Court;
 - Shall not be charged with an offense that could result in the Child being declared a juvenile sex offender under KRS 635.510; and
 - Shall not be charged with a violent offense defined under KRS 439.3401;
 and
 - d. Shall not have attained the age of eighteen (18) years.
- 2.) The evaluator, which may be the Juvenile Treatment Court Program Coordinator or other qualified individual designated by the Court, shall examine which services are available and appropriate to the Child given the Child's plan.
- 3.) If a Child is determined to be ineligible for Juvenile Treatment Court, Juvenile Treatment Court staff shall inform the referring party on a form proscribed by the Court. Prior failure to complete Juvenile Treatment Court may be specifically considered as a factor in denying admission. The evaluator will include the reasons as to the candidate's ineligibility when reporting back to the referring court.
- 4.) If a Child is determined to be eligible for the program, Juvenile Treatment Court staff shall thoroughly explain Juvenile Treatment Court and the Agreement of Participation to the Child and the applicable guardians.
 - a. The Agreement of Participation shall include an agreement to enter into an individual participant plan that will be accepted by the Child, the

Child's guardians and the Juvenile Treatment Court following assessment by a mental health professional as required by Section 7.

- 5.) The Child and applicable guardians will sign the Agreement of Participation. If a Child or guardian refuses to sign the Agreement of Participation, Juvenile Treatment Court staff shall notify the referring judge. Refusal by the Child or guardian to sign the Agreement of Participation shall render him or her ineligible to participate in Juvenile Treatment Court.
- 6.) After completing the assessment, Juvenile Treatment Court staff shall complete a Notice of Eligibility on a form prescribed by the Juvenile Treatment Court. The assessment, the Notice of Eligibility form, and any other pertinent information regarding the Child shall be completed and submitted to the Juvenile Treatment Court team prior to the Child's next scheduled court appearance.
- 7.) A subsequent failure to reach an agreement on an individual participant plan suitable to the Prosecutor, the Child or the Child's guardians, will result in involuntary termination for the Juvenile Treatment Court.

Section 5. Admissibility into Juvenile Treatment Court

Upon receipt of the assessment, Notice of Eligibility, Agreement of Participation and other pertinent information regarding the Child; the Juvenile Treatment Court judge and team shall determine whether the person may be admitted into Juvenile Treatment Court. To determine admissibility, the Juvenile Treatment Court judge and team shall evaluate the following:

- 1.) Current public offense(s)/adjudications(s);
- 2.) Past adjudication(s) for public offense(s) (if any);
- 3.) Results of any assessment;
- 4.) Information regarding the victims, if any;
- 5.) Child's willingness to participate; and;
- Other relevant information as identified by the Juvenile Treatment Court judge and team members.

Section 6. Transfer of Case to Juvenile Treatment Court

Upon a determination of admission to Juvenile Treatment Court, and upon the Child's acceptance of the offer to enter Juvenile Treatment Court, the referring judge shall complete an order transferring the case to Juvenile Treatment Court.

Section 7. Juvenile Treatment Court Participant Requirements

All Juvenile Treatment Court participants will be assessed by a certified mental health professional and, following that evaluation, will develop an individual participant plan that best responds to their individual situations. This individual participant plan will be submitted to the Juvenile Treatment Court for review and approval. Acceptance into the Juvenile Treatment Court program is conditional on all parties agreeing to an

individual participant plan for the Child. Once approved, such plans may be amended only by the agreement of all parties.

To the extent possible, advocates, families, and guardians will be involved in the services provided.

All Juvenile Treatment Court participants shall be bound to follow the minimum requirements for each phase of their individual participant plan. They are as follows:

INDIVIDUAL PARTICIPANT PLAN CREATION

- Child shall meet with a qualified mental health professional and, in consultation with the Juvenile Treatment Court Program Coordinator, develop a plan to address the Child's needs.
- Child and any applicable guardians shall agree to an individual participant plan, to include a clinical treatment, substance use disorder treatment, or case management plan, that is best suited to the Child's individual needs.
- The Juvenile Treatment Court, after obtaining the agreement of the Child, the Child's guardians, the Prosecutor, and the Defense Counsel may accept the individual participant plan.
- If agreement on an individual participant plan cannot be achieved, the Child will be involuntarily terminated from further participation in the Juvenile Treatment Court and the case will be returned to the referring entity.

PHASE ONE

- Child shall not receive new status or public offenses.
- Child shall agree to drug testing at the discretion of the Court.
- Child shall demonstrate initial satisfactory compliance with their individual participant plan.
- Child shall provide proof of satisfactory compliance with their individual participant plan, to include proof of compliance with mental health treatment recommendations.

PHASE TWO

- Child shall continue to comply with all requirements of Phase One.
- Child shall demonstrate progress in their individual participant plan by providing proof of such from their therapy providers and by providing proof of continued use of services.

PHASE THREE

- Child shall continue to comply with all requirements of Phases One and Two.
- Child shall demonstrate substantial progress in attaining all goals agreed to in their individual participant plan.

PHASE FOUR - GRADUATION

- Child shall continue to comply with all requirements of Phases One through Three.
- Child shall have completed attainment of all goals agreed to in their individual participant plan.
- Child shall complete a plan for self-directed and continuing care to be in place after graduation from the Juvenile Treatment Court.

Section 8. Incentives

Incentives may be provided during Juvenile Treatment Court sessions and may include, but are not limited to:

- 1.) Promotion to the next phase; certificates and tokens; decreased supervision;
- 2.) Increased privileges and responsibilities;
- 3.) Praise from the Juvenile Treatment Court judge and team;
- 4.) Extended curfews; and
- 5.) Other incentives approved by the Juvenile Treatment Court team.

Section 9. Sanctions for Non-Compliance with Juvenile Treatment Court Requirements

Each participant shall comply with all requirements and other conditions established by Juvenile Treatment Court. Failure to comply may, after careful consideration of non-fault-based obstacles, result in the Juvenile Treatment Court judge imposing sanctions upon the participant. Sanctions may include, but are not limited to:

- 1.) Admonishments from the Court;
- 2.) Community service;
- 3.) Phase demotion;
- 4.) Increased group treatment;
- 5.) Additional mental health treatment, including possible residential treatment;
- 6.) Substance abuse treatment;
- 7.) Home incarceration;
- Detention, if allowable for the underlying charge or for contempt. Detention must be allowable under KRS Chapters 600 to 645 and the Juvenile Court Rules of Procedure and Practice; and
- 9.) Termination from Juvenile Treatment Court.

Graduated sanctions should be utilized based on the severity of the violation.

Section 10. Treatment by Privately Retained Providers

Privately retained psychologists, psychiatrists, and Licensed Clinical Social Workers may provide any service required by these regulations at the cost of the Child, to

include the use of the Child's medical insurance or other resources. Such services may only be utilized when all parties agree to allow the Child to utilize privately retained services from a specific provider. Private services will only be accepted if they are offered in accordance with these regulations and if they include an appropriate waiver that would allow the provider to share information to verify, to the satisfaction of the Court, that the Child is making progress towards treatment goals.

Section 11. Involuntary Termination from Juvenile Treatment Court

The Juvenile Treatment Court staff or team may make a recommendation to the Juvenile Treatment Court judge that a participant be terminated from Juvenile Treatment Court due to the participant's non-compliance with Juvenile Treatment Court requirements or conditions.

If the Juvenile Treatment Court judge agrees with the recommendation of termination, Juvenile Treatment Court staff shall file a written summation of the violations on a form prescribed by the Juvenile Treatment Court and a request that the judge terminate the participant from Juvenile Treatment Court. The participant and applicable parent or guardian shall be informed of the decision to terminate his or her participation in the Juvenile Treatment Court session. If the participant has absconded, informing the applicable parent or guardian is sufficient. A Notice of Termination shall be signed by the Juvenile Treatment Court judge on a form prescribed by the Juvenile Treatment Court, and a copy of the violations shall be attached. Upon signature of the Notice of Termination by the Juvenile Treatment Court judge, the case shall be referred back to the appropriate juvenile district court division for further proceedings. The Notice of Termination shall be filed in the official record by the clerk.

Upon termination, the receiving judge shall schedule the case for a hearing for further proceedings. The Notice of Termination shall be filed in the official record by the clerk, who shall serve notice of the Notice of Termination on the parties and their attorneys.

Section 12. Voluntary Termination

Participants may petition the Juvenile Treatment Court judge for termination from Juvenile Treatment Court. If the Juvenile Treatment Court judge determines that the request is knowingly and voluntarily made, the Juvenile Treatment Court judge may terminate the participant from Juvenile Treatment Court on a form prescribed by the Juvenile Treatment Court and refer the case back to the appropriate circuit or district court. The Notice of Termination shall be filed in the official record by the clerk, who shall serve notice of the Notice of Termination on the parties. The receiving circuit or district court shall schedule a hearing for further proceedings.

Section 13. Administrative Discharge

If a Juvenile Treatment Court participant cannot complete Juvenile Treatment Court, through no fault of his/her own, including the inability to pay for treatment, he/she may be administratively discharged. If the Juvenile Treatment Court team determines that administrative discharge is appropriate, the Juvenile Treatment Court staff shall complete an Affidavit of Administrative Discharge to provide to the Juvenile Treatment Court judge. If the Juvenile Treatment Court judge agrees with the request, the Juvenile Treatment Court judge shall complete a Notice of Termination by administrative discharge on a form prescribed by the Juvenile Treatment Court and refer the case back the appropriate circuit or district referring court. The Notice of Termination shall be filed in the official record by the clerk, who shall serve notice of the Notice of Termination on the parties. The receiving court shall schedule a hearing on the juvenile docket for further proceedings.

Section 14. Successful Completion of Juvenile Treatment Court

- A participant will be determined to have successfully completed Juvenile Treatment Court after the participant has:
 - a. Completed all four Juvenile Treatment Court phases;
 - b. If feasible, paid all restitution owed. If the total restitution amount is too great to be paid in full while in Juvenile Treatment Court, then a reasonable amount as determined by the Juvenile Treatment Court team shall be paid prior to being determined to have successfully completed Juvenile Treatment Court. All parties must be in agreement to amend any restitution;
- 2.) Upon successful completion of Juvenile Treatment Court, the sentencing judge or the Juvenile Treatment Court judge may:
 - a. Dismiss the underlying charge(s) and expunge the case, if the participant was on deferral, but only after restitution, if any, has been paid as determined by the Juvenile Treatment Court; or
 - b. Modify probation if the participant was on probation or found in contempt of court, but only after restitution, if any, has been paid as determined by the Juvenile Treatment Court.
- 3.) A formal Juvenile Treatment Court graduation, either in-person or virtually, should be held for an eligible participant within 90 days of successful completion of Phase Four of Juvenile Treatment Court as outlined above.

Section 15. Juvenile Treatment Court Meeting

1.) The Juvenile Treatment Court judge and Juvenile Treatment Court staff shall attend staff meetings prior to a Juvenile Treatment Court session, and, at minimum, a monthly general team meeting. The Prosecutor, Defense, and other Juvenile Treatment Court team members are encouraged to attend these staff meetings. Juvenile Treatment Court staff meetings shall be confidential and non-team members shall not attend absent extraordinary circumstances. If there is an extraordinary need for a non-team member to attend then, upon

approval by the Juvenile Treatment Court judge, the non-team member shall be allowed to attend the staff meetings, but only after signing a confidentiality agreement.

- 2.) At Juvenile Treatment Court staff meetings and at the monthly team meeting, the Juvenile Treatment Court team shall discuss the following:
 - a. Whether to admit potential participants into Juvenile Treatment Court;
 - b. Whether to approve proposed agreed upon individual participant plans;
 - c. Appropriate sanctions for violations by current participants;
 - d. Appropriate incentives for achievements and phase advancement of participants who will appear at the Juvenile Treatment Court session; and,
 - e. Other pertinent issues relating to Juvenile Treatment Court.

Section 16. Juvenile Treatment Court Sessions

Juvenile Treatment Court judges shall conduct Juvenile Treatment Court sessions as needed.

Section 17. Confidentiality

Juvenile Treatment Court proceedings shall be confidential and all proceedings shall be closed unless otherwise authorized by the Juvenile Treatment Court judge.

Juvenile Treatment Court team members shall comply with state and federal confidentiality laws regarding treatment information.

Section 18. Filing of Juvenile Treatment Court Documents

Upon utilization of any of the following documents, a copy of such documents shall be filed by the Juvenile Treatment Court staff with the appropriate court clerk for entry into the court record of the underlying public offense:

- 1.) Order referring to Juvenile Treatment Court;
- 2.) Notice of Eligibility;
- 3.) Order transferring to Juvenile Treatment Court;
- 4.) Summation of Violations, if applicable; and,
- Notice of Termination under Sections 11 to 13 or orders entered upon successful completion under Section 14.

Section 19. Student Interns

The Court may establish and maintain a Juvenile Treatment Court Student Intern Program. The Court shall establish policies relating to the program and shall have the authority to approve the acceptance of student interns. Any student interns shall be required to complete a confidentiality agreement and be apprised of federal and state law regarding confidentiality of any information they might receive while working with Juvenile Treatment Court.

Any student intern proposing to work with the Court will be required to complete a background check by the Administrative Office of the Courts and Central Registry Check by the Cabinet for Health and Family Services prior to assisting the Court.

Section 20. Volunteers

Volunteers may be permitted to participate in the Juvenile Treatment Court to the extent allowed by the Juvenile Treatment Court judge. All volunteers shall be required to sign a confidentiality agreement and be apprised of federal and state law regarding confidentiality of any information they might receive while working with Juvenile Treatment Court.

The Juvenile Treatment Court shall establish policies relating to the use of volunteers.

Any volunteer proposing to work with the Court will be required to complete a background check by the Administrative Office of the Courts and Central Registry Check by the Cabinet for Health and Family Services prior to assisting the Court.

Section 21. Drug Testing

Through the approved treatment provider, drug testing, in combination with treatment, may be administered to any Juvenile Treatment Court participant upon a reasonable suspicion of drug use.

All Juvenile Treatment Court participants shall be required to make themselves available for specimen collection as required by the Juvenile Treatment Court Program Coordinator or the Court.

The Juvenile Treatment Court shall be authorized to establish further policies and procedures relating to drug testing.

Section 22. Treatment Provider

State personnel, state agencies, or other entities that provide treatment modalities for juveniles on behalf of the state shall be utilized to the maximum extent practicable for treatment, drug testing, and other needed services.

The Juvenile Treatment Court shall maintain a list of authorized state providers for said treatment or other services.

Participants may also utilize a private provider of mental health treatment and drug testing if the Prosecutor, receiving court, Juvenile Treatment Court, and Defense agree. Private care may only be utilized if it complies with the requirements of these regulations.

Consideration of any provider shall include whether the participant is covered by insurance or receives Medicaid or other assistance and whether the provider accepts that insurance or assistance.

Section 23. Administrative Orders of the Court

The Fayette County Juvenile Treatment Court will issue standard operating orders	
that are consistent with these regulations	
Adopted this the day of	, 2021.
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Lindsay Hughes Thurston	Melissa Moore Murphy
Judge, Fayette District Court	Judge, Fayette District Court
Cert	tificate
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certify that the foregoing Local Rules of the Fayette County Juvenile Treatment Court	
were duly signed by the Hon. Lindsey Hug	hes Thurston, Judge of the Fayette District
Court and Hon. Melissa Moore Murphy, Ju	Idge of the Favette District Court and
Presiding Judges of the Fayette County Ju	venile Treatment Court and that are i
hereby certified to the Chief Justice of the	Supreme Court of Kentucky.
Clerk, Fayette Circuit Court	
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